



Docket No.: 1080.1045CIPD3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Fumio NAGASHIMA

Serial No. 09/765,380

Group Art Unit: 2122

Confirmation No. 1046

Filed: January 22, 2001

Examiner: Vo, Ted T.

For: METHOD FOR STORING SOFTWARE OBJECTS FROM EXISTING SOFTWARE
COMPONENTS (AS AMENDED)

PETITION TO ACCEPT DELAYED CLAIM FOR PRIORITY

UNDER 35 U.S.C. § 119 AND 37 CFR. § 1.55(C)

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant's provisionally petition the Commissioner to accept a late claim of priority to Japanese Patent Application No. 9-171782 filed in Japan on 27 June 1997. The parent application, U.S. Serial No. 08/919,254 was filed in the United States on August 28, 1997. On that date, there was no requirement that a claim for foreign priority be timely made. The rules of 37 C.F.R. §1.55(c) came into effect on November 29, 2000 over three years after the parent application was filed.

MPEP Section 201.14 addresses the effective date of the timeliness requirement for filing a claim for priority. Section 201.14 is excerpted below: 03/09/2006 JADD01 00000010 193935 09765380

201.14 Right of Priority, Formal Requirements [R-2] 03 FC:1454 1370.00 DA

For nonprovisional applications filed prior to November 29, 2000, the requirements of the statute are (a) that the applicant must file a claim for the right and (b) he or she must also file a certified copy of the original foreign application. . . . Where a claim for priority under **35 U.S.C. 119(b)** has not been made in the parent application, the claim for priority may be made in a continued prosecution application (CPA) filed under **37 CFR 1.53(d)**

* * *

For original applications filed under 35 U.S.C.111(a) (other than a design application) on or after November 29, 2000, the requirements of the statute are that the applicant must (a) file a claim for the right of priority These papers must be filed within a certain time limit. The Director has by rule set this time limit as the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application."

The first excerpted paragraph of MPEP §201.14 indicates that the old rules apply to applications filed prior to November 29, 2000. In referring to the old rules, the first paragraph also mentions continuations of applications filed prior to November 29, 2000. The present application is a divisional of an application filed prior to November 29, 2000. Thus, it is submitted that the first paragraph and the old rules apply.

On the other hand, the second excerpted paragraph of MPEP § 201.14 refers to original applications filed under 35 U.S.C. § 111(a) on or after November 29, 2000. The present application is a divisional application, not an "original" application. Accordingly, it is submitted that the second paragraph of 201.14 and the new rule do not apply.

This provisional petition satisfies the requirements of 37 C.F.R. § 1.55(c) as follows:

(1) The claim for priority, together with a certified copy of the priority document are being filed herewith as is a Supplemental Oath/Declaration;

(2) The Commissioner is authorized to charge Staas & Halsey Deposit Account No. 19-19-3935 for the surcharge set forth in § 1.17(t), if it is determined that this Petition is required; and

(3) If there was a due date for the priority claim, then the entire delay between the date the claim was due under 37 C.F.R. §1.55(a)(1) and the date the claim is being filed was unintentional.

If there are any questions regarding this petition or any of the enclosed documents, such questions can be addressed by telephone to the undersigned.

The Commissioner is authorized to charge any additional fees required in connection with this petition, and credit any overpayment to Staas & Halsey Deposit Account No. 19-3935.

Respectfully submitted,
STAAS & HALSEY LLP

Date: March 8 2006

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